

RD AN No. 4127 (4279-B)
November 17, 2005

SUBJECT: Business and Industry Guaranteed Loan Program
Purchase of Cooperative Stock

TO: State Directors, Rural Development

ATTN: Business Programs Directors

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to clarify and provide guidance in determining the procedure for handling inquiries and accepting Business and Industry (B&I) Guaranteed Loan applications for the purchase of cooperative stock.

COMPARISON WITH PREVIOUS AN:

This AN updates and replaces RD AN No. 3994 (4279-B), which expired June 30, 2005.

IMPLEMENTATION RESPONSIBILITIES:

RD Instruction 4279-B, section 4279.113(j), allows for the purchase of cooperative stock by individual farmers or ranchers in a farmer or rancher cooperative established for the purpose of processing an agricultural commodity. A processing facility that is a wholly-owned subsidiary of a farmer/rancher cooperative is considered to be part of the cooperative. The lender must complete a credit analysis of each stock purchase loan in accordance with RD Instruction 4279-B, section 4279.131; however, because of the financial link between the stock purchase loans and the cooperative, the lender is expected to provide the Agency with a complete credit analysis of the cooperative prior to making its first stock purchase loan.

In accordance with RD Instruction 4279-B, section 4279.150, a feasibility study by a qualified independent consultant may be required by the Agency for start-up businesses or existing businesses when the project will significantly affect the borrower's operation.

EXPIRATION DATE:
November 30, 2006

FILING INSTRUCTIONS:
Preceding RD Instruction 4279-B

A feasibility study may be required to be completed for the cooperative, in accordance with the above-cited program regulations, and will provide for a consistent evaluation of the potential success of the business upon which the stock purchase loans are based. The feasibility of the cooperative will determine the viability of the business and not the individual farm operators. Feasibility studies of the individual borrowers (farmers/ranchers) are not necessary. State Directors are not authorized to approve or make any commitment on any request for the purchase of cooperative stock until the National Office has reviewed the cooperative's feasibility study/proposal and provided direction. When a feasibility study/proposal is presented, the State Director is to forward the information, along with a written summary and a recommendation, to the National Office.

Cooperative stock purchase loans are considered categorical exclusions under the provisions of RD Instruction 1940-G. However, there is a financial soundness link between the stock purchase loan and the environmental soundness of the cooperative that issues the stock. Since the interests of the Agency are directly tied to the successful operation of the cooperative, you should include the following requirement in all Conditional Commitments for cooperative stock loans: "The cooperative will provide the lender with all required Federal, State, and local permits and other clearances involving the environmental aspects for review and approval." If the lender requests the Loan Note Guarantee to be issued prior to the cooperative becoming operational, the lender must certify to the Agency that the above requirement will be met.

Existing program regulations require that collateral be sufficient to protect the interests of the lender and the Agency. The Agency requires the lender to at least secure the loan with a lien on the stock acquired with loan funds, an assignment of any patronage refund, and the full and unconditional personal or corporate guarantee of the borrower. However, the lender will otherwise determine the sufficiency of collateral in accordance with its established lending practices and may require more security.

The borrower and lender must realize that the borrower is fully liable for the entire debt, regardless of the success or failure of the cooperative. In the event of default, the stock will very likely not be sufficient to pay the stock purchase loan in full. The lender will be expected to maximize the recovery on each stock purchase loan, including collection of the personal or corporate guarantees.

When you are working with a cooperative with members in more than one State, it will be easier for the cooperative to channel all of its questions and concerns through a single State Office. The lead State Office will coordinate issues involving the lender and cooperative concerning policy and procedural issues and promote a standardized methodology for loan processing and servicing.

The lead State Office will be the State in which the processing facility is located, unless otherwise designated by the National Office. The individual loans will be processed, approved, and serviced in the State in which that borrower resides, regardless of where the processing facility is located.

If you have any questions, please contact Brenda Griffin, Loan Specialist, B&I Division, (202) 720-6802.

(Signed by Pandor Hadjy) for

PETER J. THOMAS
Administrator
Business and Cooperative Programs